

**STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

Southcentral Regional Land Office

Memorandum of Decision

LAS 32622

Hatcher Pass Mountain Guides

Application for Land Use Permit

AS 38.05.850

Requested Action

Hatcher Pass Mountain Guides (HPMG), is requesting authorization for cross country travel associated with snowcat and heli ski operations, as well as the storage of the associated equipment, one PistenBully Snow Cat and one BR 350 Snow Cat, on state-owned land within the Hatcher Pass Management Area (HPMA).

Proposed Action

The Division of Mining, Land & Water (DMLW) proposes to issue a Land Use Permit to HPMG to use state-owned lands, within HPMA which are open to motorized use during winter months, for cross country travel associated with snowcat and heli ski operations within HPMA, as well as the storage of the associated equipment, one PistenBully Snow Cat and one BR 350 Snow Cat.

Scope of Decision

The scope of this decision is limited to determining if it is appropriate for the Department of Natural Resources (DNR) to issue an authorization for the proposed land use activities.

Statutory Authority

This permit is being adjudicated pursuant to AS 38.05.850.

Administrative Record

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the 2010 Hatcher Pass Management Plan (HPMP) as amended and other classification references described herein, and the casefile for the application serialized by DNR as LAS 32622.

Location Information

Geographic Location: Operations of HPMG will occur in the portion of HPMA that reaches as far north as Purches Creek, as far west as Lucky Shot Mine, as far south as the confluence of Homestake Creek and Willow Creek, and as far east as Independence Mine State Historical Park (IMSHP). Storage of equipment, and the client pick up location will occur at the parking area that is on the west side of Fishhook-Willow Road, and approximately 1,400 feet south southeast of the intersection of West Willow Fishhook Road, Gold Cord Road, and Fishhook-Willow Road.

Legal Description: Sections 13, 14, 23, 24, 25, 26, 35, 36, Township 20 North, Range 1 West, Seward Meridian

Sections 16, 17, 18, 19 ,20, 28, 29 30, 31, 32, 33, Township 20 North, Range 1 East, Seward Meridian

Sections 1, 2, Township 19 North, Range 1 West, Seward Meridian

Sections 3, 4, 5, 6, Township 19 North, Range 1 East, Seward Meridian

Other Land Information

Municipality: Matanuska Susitna Borough

Regional Corporation: Cook Inlet Region Inc.

Title

The State of Alaska acquired title through:

- GS 1228, Patent No. 50-65-0095, Dated August 13, 1964
- GS 1228, Patent No. 50-86-0027, Dated October 9, 1985
- GS 1222, Patent No. 50-87-0076, Dated November 19, 1986
- GS 1224, Patent No. 50-87-0159, Dated February 18, 1987
- GS 1224, Patent No. 50-2000-0102, Dated August 1, 2000
- Tentative Approval of Anchorage 058957, Dated March 3, 1964
- Modified Tentative Approval of Application AA-2036, Dated January 25, 1968
- Tentative Approval of Application A-058957, Dated July 2, 1984
- Tentative Approval of Application A-058954, Dated September 26, 1984
- Tentative Approval of Application A-058954, Dated July 15, 1994
- Tentative Approval of Application A-058954, Dated May 8, 2003

Planning & Classification

Hatcher Pass Management Plan, adopted in 2010, amended in part in 2012:

- Willow Mountain Management Unit;
 - Land Classification: Public Recreation Land and Wildlife Habitat Land;
- Craigie Creek Management Unit;
 - Land Use Classifications: Public Recreation Land and Mineral Land;
- Bald Mountain/Hillside Management Unit;
 - Land Use Classifications: Public Recreation Land, Wildlife Habitat Land, and Mineral Land;
- Independence Management Unit:
 - Land Use Classifications: Public Recreation Land and Mineral Land;
- Archangel Management Unit;
 - Land Use Classifications: Public Recreation Land and Mineral Land;
- Mile 16 Management Unit;
 - Land Use Classifications: Public Recreation Land;
- Government Peak Management Unit;
 - Land Use Classifications: Public Recreation Land.

The proposed activities are consistent with HPMP within the Willow Mountain, Craigie Creek, Bald Mountain/Hillside, and northern portions of Archangel Management Units, as well as the Areawide Uses listed in Table 2-1. Additionally, the land classifications of the above Management Units, Public Recreation, as derived from the designation of Public Recreation –

Dispersed and Public Recreation - Developed, Mineral Land, as derived from the designation of Minerals, and Wildlife Habitat, as derived from the designation of Habitat all allow for authorizations relating to recreation.

The Mile 16, the Government Peak, the Independence Mine, and the southern portions of the Archangel Management Units are closed to year-round motorized access and as such, the proposed activities are not consistent with HPMP, and HPMG will not be authorized to operate in these management units, with the exception of the motorized corridor that follows Hatcher Pass Road, also known as Palmer-Fishhook Road and Willow-Fishhook Road, to provide motorized access through the Independence, the southern portions of the Archangel, and Reed Lakes/Little Susitna Management Units.

Summit Lake State Recreation Site (SLSRS) is not closed to year-round motorized access but based upon comments from DNR Division of Parks and Outdoor Recreation (DPOR), HPMG will not be authorized to operate within SLSRS.

Third Party Interests

Agencies

- Department of Natural Resources - DPOR
- Department of Transportation and Public Facilities
- U.S. Bureau of Land Management

Private Land Holders

- Alaska Hardrock, Inc.
- Brooklyn Development Co.
- Gold Cord Mining & Milling
- Hatcher Pass Remote Prop. LLC
- Mountain Heather Investments, LLC
- Dan Renshaw
- Karl Wurlitzer

Surface Activity

- ADL 227777, Land Exchange, Nonequal Value, Conveyed, DNR DOPOR Statewide
- ADL 209186, Management Right, Issued, DNR DOPOR Statewide
- ADL 223571, Management Agreement, ILMA, Issued, DNR DOPOR Statewide
- ADL 227831, Public Easement, Access, Issued, DNR DOPOR Statewide
- ADL 228458, Management Right, Land Donated to SOA, Issued, DNR DOPOR Statewide
- ADL 230679, Management Right, General, Issued, DNR DOPOR Statewide
- ADL 52374-B, Public Easement, Access, Issued, DFG Habitat
- ADL 52374-C, Public Easement, Access, Issued, DFG Habitat
- ADL 223584, Management Agreement, ILMA, Issued, DNR DOPOR Statewide
- ADL 231287, Trespass, Abandoned Equipment, Active, Chris Nettels
- LAS 30291, DMLW Permit, Miscellaneous Land Use, Issued, Arctic Air Walkers

Sub-Surface Activity

- ADL 639138, Mining Claim, Active, Argile E. Pettit
- ADL 639139, Mining Claim, Active, Argile E. Pettit
- ADL 645958, Mining Claim, Active, Argile E. Pettit
- ADL 655481, Mining Claim, Active, Argile E. Pettit
- ADL 655482, Mining Claim, Active, Argile E. Pettit
- ADL 655483, Mining Claim, Active, Argile E. Pettit
- ADL 650873, Mining Claim, Active, Argile E. Pettit
- ADL 645932, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645933, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645934, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645935, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645942, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645943, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645944, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645945, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645947, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 650851, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 650852, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 650853, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645954, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645948, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 650855, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645949, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645936, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645940, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645941, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645937, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645955, Mining Claim, Active, Alaska Hardrock, Inc
- ADL 651700, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 651701, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 656100, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 656101, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 656105, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 656106, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645953, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645955, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645957, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645956, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 645939, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 656102, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 656103, Mining Claim, Active, Alaska Hardrock Inc.
- ADL 724498, Mining Claim, Active, Camilla N. Potts
- ADL 724499, Mining Claim, Active, Camilla N. Potts

- ADL 724500, Mining Claim, Active, Camilla N. Potts
- ADL 724501, Mining Claim, Active, Camilla N. Potts
- ADL 724502, Mining Claim, Active, Camilla N. Potts
- ADL 724503, Mining Claim, Active, Camilla N. Potts
- ADL 724504, Mining Claim, Active, Camilla N. Potts
- ADL 709103, Mining Claim, Active, Doyle E Holmes
- ADL 724740, Mining Claim, Active, Doyle E Holmes
- ADL 709104, Mining Claim, Active, Doyle E Holmes
- ADL 704846, Mining Claim, Active, Doyle E Holmes
- ADL 656029, Mining Claim, Active, Doyle E Holmes
- ADL 656030, Mining Claim, Active, Doyle E Holmes
- ADL 709100, Mining Claim, Active, Doyle E Holmes
- ADL 709101, Mining Claim, Active, Doyle E Holmes
- ADL 716392, Mining Claim, Active, Doyle E Holmes
- ADL 709102, Mining Claim, Active, Doyle E Holmes
- ADL 645952, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 645950, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 645951, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 720997, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 720998, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 645938, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 720999, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 721001, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 721000, Mining Claim, Active, Mountain Heather Investments, LLC
- ADL 706692, Mining Claim, Active, Steve Weaver
- ADL 706693, Mining Claim, Active, Steve Weaver
- ADL 330977, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 338501, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347957, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347958, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347974, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347972, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347952, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347950, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347949, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347959, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347951, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347961, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347953, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347960, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347975, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347973, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 338522, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 338512, Mining Claim, Active, Tower Hill Mines, INC.

- ADL 338521, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 338511, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347971, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 338513, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347970, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 338520, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 347969, Mining Claim, Active, Tower Hill Mines, INC.
- ADL 540720, Mining Claim, Active, Edward Kennedy
- ADL 540722, Mining Claim, Active, Ernest F. Dean
- ADL 724632, Mining Claim, Active, Ernest F. Dean
- ADL 561339, Mining Claim, Active, Daniel L. Valdez
- ADL 561468, Mining Claim, Active, Jerry J. Miller
- ADL 632671, Mining Claim, Active, Jason Lee Burns
- ADL 639188, Mining Claim, Active, Jason Lee Burns
- ADL 665643, Mining Claim, Active, Jason Lee Burns
- ADL 666511, Mining Claim, Active, Marlyss J. Engelke
- ADL 719993, Mining Claim, Active, Michael Mendoza
- ADL 729019, Mining Claim, Active, Michael Mendoza
- ADL 728155, Mining Claim, Active, James Douglas Nichols
- ADL 304897, Mining Claim, Active, Truett L. Scarborough
- ADL 545643, Mining Claim, Active, Diane Baumeister
- ADL 718104, Mining Claim, Active, Diane Baumeister
- ADL 711678, Mining Claim, Active, Stephan F. Entringer
- APMA A20173003, Application Permits to Mine AK, Hardrock, Issued, Alaska Hardrock Inc
- APMA F20169748, Application Permits to Mine AK, Hardrock, Issued, Tower Hill Mines, Inc.
- APMA F20189689, Application Permits to Mine AK, Issued, Samuel E Eaves
- APMA A20173003, Application Permits to Mine AK, Hardrock, Issued, Alaska Hardrock, Inc.
- APMA A20193257, Application Permits to Mine AK, Placer, Issued, Michael Mendoza

Background

This is HPMG's first application for a Land Use Permit with DNR.

Public Notice & Agency Review

Agency Review Summary

A 14-day Agency Review commenced on April 2, 2019, was extended for an additional 17 days on April 10, 2019 and closed May 2, 2019. The Agency Review was sent to DNR Office of History & Archaeology, DNR Land Sales, DNR Division of Oil & Gas, DNR Division of Mining, Land & Water (DMLW) Realty Services, DPOR State Parks Permitting, Department of Environmental Conservation, Department of Fish & Game (ADF&G) Habitat Division, ADF&G Division of Wildlife Conservation, Department of Transportation and Public Facilities, U.S. Army Corps of Engineers, U.S. Fish and

Wildlife Service, the Environmental Protection Agency, the Bureau of Land Management Anchorage Field Office, and the Matanuska-Susitna Borough.

Agency Review Comment and Response

Comments were received from the Department of Transportation and Public Facilities, ADF&G, Department of Environmental Conservation, and DPOR. Agency Comments and Responses are found in Attachment A.

Public Notice Summary

A 14-day Public Notice was sent on April 2, 2019 and extended for an additional 17 days on April 10, 2019 and closed on May 2, 2019. The public notice was sent to the post offices in Willow, Wasilla, Palmer, and Sutton, to Cook Inlet Region Inc., nearby property owners, and posted to the DNR Public Notice Website.

Public Notice Comment and Response

Comments and responses are found in Attachment A.

Environmental Considerations

The environmental concerns are mitigated by the stipulations of the permit.

Discussion

HPMG has applied for an area that encompasses the full sections as listed in the Legal Description of this Memorandum of Decision. HPMG will be authorized to operate in most areas they applied for however, they are not authorized to operate within the boundaries of IMSHP, which is closed to motorized use year-round, nor SLSRS per the request of DPOR. The Mile 16, the Government Peak, the Independence Mine, and the southern portions of the Archangel Management Units are also excluded from this authorization, as they are closed to year-round motorized access with the exception of use of the motorized corridor that follows Hatcher Pass Road, also known as Palmer-Fishhook Road and Willow-Fishhook Road.

The applied-for area also encompasses numerous parcels that are not in state-ownership. It is the responsibility of HPMG to have a thorough understanding of the land ownership of where they are operating, to ensure they remain on state-owned land as not to trespass. This permit authorizes use for state land only. As per the stipulations of the permit, HPMG will be required to submit GPS log track files for all routes of travel occurring while operating under this authorization.

Numerous concerns were raised during the public notice process regarding the use of helicopters in the highly congested area along Hatcher Pass Road (aka Willow-Fishhook Road and Palmer-Fishhook Road). Per the operations plan submitted by HPMG, "Guests who opt to pay for heli bumps will be picked up by the heli at the bottom of our operating area such as the bottom of Bullion Ridge or at the base of the bowl in the Dogsled pass area. The heli will never operate on the Palmer side of the pass or near the parking lot areas." This plan of operation is acceptable by DNR, as landing a helicopter on state-owned land for commercial recreation purposes is generally allowed per the HPMP and 11 AAC 96.020 provided the helicopter operations are registered, per 11 AAC 96.018.

In recent years Farley Dean dba Snow Cat Services of Alaska has been awarded grooming contracts from DPOR. If Snow Cat Services of Alaska is to be awarded any future contracts for these operations, it is to be understood that the operations of Snow Cat Services of Alaska and HPMG, while using the same heavy equipment for each individual operation, are to remain separate as to avoid any conflicts of interest.

Performance Guaranty

Performance guarantees are means to assure performance and to provide ways to pay for corrective action if the grantee fails to comply with the requirements set forth in the permit document. They are also used to protect state land from damage and to make certain that improvements are removed and that the land is returned in a usable condition upon termination of the permit.

Pursuant to 11 AAC 96.060, a performance guaranty in the amount of \$20,000.00, typically in the form of a bond or other security, will be required.

Insurance

Insurance is a means to protect the state from liabilities incurred through the use of state property, or from damage to state property as a result of accidental or catastrophic events. This type of protection is necessary in the event of an accident or negligence that was consequentially connected to activities conducted on state land, and/or if the state is named in a lawsuit as a result of an accident or negligence.

Pursuant to 11 AAC 96.065, insurance naming the State of Alaska as additionally insured will be required.

Fees

Pursuant to 11 AAC 5.180(d)(2)(F), an annual fee of \$600.00 based on equipment staging, and 11 AAC 05.180(d)(2)(J), an annual fee of \$240.00 based on authorization of a land use permit that does not hinder other public use, such as moving heavy equipment across state land.

Fee: \$840.00

Relevant Fee Regulation(s): 11 AAC 5.180(d)(2)(F) & (J)

Term

The permit will be valid for one operating season of use (December 1, 2019 through May 31, 2020), and provided Hatcher Pass Mountain Guides is compliant with the terms of the authorization and no other issues arise, the land use permit will be extended for up to four additional years without notice, amendment, or application fee.


Effective Date: December 1, 2019

Expiration Date: May 31, 2024

Recommendation

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, and regulations related to this application, it is my recommendation to issue

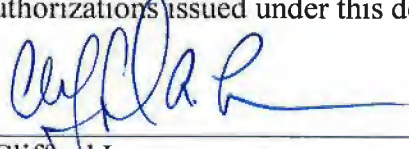
this Land Use Permit on condition that all permit stipulations are followed as described in the attached permit. During the period of the permit an inspection may be conducted at the discretion of the Department of Natural Resources to ensure permit compliance.


Jay Rokos
Natural Resource Specialist II

10/29/2019
Date

Manager's Decision

It is the decision of this office to take the action as recommended above. This decision may be rescinded by written notification if, after 60 days from the effective date of this decision, the applicant has not completed all requirements outlined in this decision for issuance of the permit. Additional time may be allotted to complete these requirements at the applicant's request and concurrence of the Authorized Officer, however this will not extend the total term of the authorizations issued under this decision.


Clifford Larson
Natural Resource Manager I

10/29/19
Date

Appeal

A person affected by this decision may appeal it in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to (907) 269-8918, or sent by e-mail to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b).

This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.